

CHAPTER NO. 881

HOUSE BILL NO. 2963

By Representatives Odom, Mike Turner

Substituted for: Senate Bill No. 2931

By Senator Henry

AN ACT to amend Tennessee Code Annotated, Title 67, relative to delinquent property taxes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 5, is amended by adding the following language as a new, appropriately designated section:

Section 67-5-____.

(a) As used in this section, unless the context otherwise requires:

(1) "Taxing agency" means:

(A) Any county having a population of not less than three hundred eighty thousand (380,000) nor more than eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census; or

(B) Any city, town, taxing district, municipal corporation, political subdivision or any other state or local governmental entity that is authorized to assess taxes on real property that is wholly or partially within a county described in subdivision (a)(1)(A);

(2) "Tax collector" means, in the case a taxing agency that is a county or for which a county acts as its tax collector, the county trustee, and, in the case of a taxing agency that is a governmental entity that, under existing laws, collects its own taxes, assessments, or other charges secured by real property, the officer of the taxing agency responsible for collecting such taxes or charges; and

(3) "Tax receivable" means the right to receive revenue from a tax, assessment, or other charge secured by a lien on real property that has become delinquent in

whole or in part, including all penalties and interest on such taxes, assessments, or other charges accrued pursuant to law.

(b) Any taxing agency by resolution of its governing body may elect to sell its tax receivables to public or private parties. In the case of a taxing agency that is a county or for which a county acts as its tax collector, prior to the governing body electing to sell its tax receivables, the county trustee must certify to the governing body the trustee's consent to administer the program: provided, however, that upon a two-thirds ($\frac{2}{3}$) vote of the legislative body of the taxing agency, this certification shall not be necessary. All interest and penalties imposed by law shall continue to accrue on the unpaid original amount of the tax in the same manner as if such tax receivables had not been sold. Sales of tax receivables may be by individual parcel or in bulk. The taxing agency may establish such criteria for eligible purchasers of tax receivables and may make such sales pursuant to negotiated sale for such prices as the taxing agency determines to be in the best interest of the taxing agency.

(c) A taxing agency may enter into purchase and sale agreements for the sale of tax receivables, which purchase and sale agreements may, consistent with the provisions of this section, contain such terms, covenants, representations and warranties as, in the judgment of the taxing agency, shall be necessary or desirable. The agreement may require the taxing agency to repurchase a tax receivable, or to substitute another tax receivable of equivalent value, for prices and under conditions specified in the agreement. In the case of a taxing agency for which the applicable county trustee acts as tax collector, upon the execution of a purchase and sale agreement for the sale of tax receivables by the appropriate officer of the taxing agency, a taxing agency may enter into an agreement with the county trustee to act as the taxing agency's agent in connection with the administration of such purchase and sale agreements and of the related tax receivables.

(d) The order of priority of the application of collections of tax receivables with respect to a particular property shall not be changed by reason of the sale of all or a portion of such tax receivables. All amounts collected on account of the tax receivables shall be promptly paid by the taxing agency to the holder of the tax receivable; provided, however, that the taxing agency shall have the right to retain all amounts that are charged and collected as trustee's fees, attorney's fees and costs of collection or that are otherwise collected in excess of the amount due on the tax receivables sold.

(e) Unless provided otherwise in the purchase and sale agreement with respect to tax receivables sold:

(1) The amount bid in a tax sale on behalf of the governmental entities for which the taxes are owing shall include the amount of all tax receivables sold, including the costs incident to the collection thereof;

(2) In the event that the property is acquired by a governmental entity in a tax sale and is not redeemed by the end of the redemption period, then the governmental entity shall promptly offer the property for sale to private purchasers by appropriate means and shall make diligent efforts to sell the same at its reasonable market value, unless the governmental entity pays to the purchasers of the tax receivables the full amount of the tax receivables then due and unpaid;

(3) After a tax sale to a governmental entity, penalties and interest pursuant to § 67-5-2010(a)(1) shall continue to accrue on any tax receivables sold until paid in full; however, under no circumstances shall the cost of redemption be greater than if the receivable had not been sold; and

(4) No governmental entity shall have the power to discharge, reduce, delay or otherwise compromise the payment of any tax receivables that have been sold unless the governmental entity pays to the purchasers of the tax receivables the amount of the tax receivable payments that have been reduced, delayed or otherwise compromised.

(f) Tax receivables and the penalties and interest accrued thereon shall be exempt from taxation by any governmental entity. The real property affected by any tax receivable shall not be exempt from taxation by reason of this section.

(g) It shall be the duty of the tax collector and all other state, county and municipal officers to continue to enforce the collection of tax receivables that have been sold pursuant to this section in the same manner as if such tax receivables had not been sold. Nothing in this subsection (g) shall be construed to require of the tax collector or its officers, employees, agents or attorneys a standard of performance of their statutory or contractual duties in the collection of a tax receivable that is different from the standard of performance otherwise required of those persons.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 25, 2006


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 19th day of June 2006


PHIL BREDESEN, GOVERNOR